

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL LEE CHILDRESS, JR.,

Petitioner, No. CIV S-02-0870 DFL GGH P

vs.

MIKE KNOWLES, Warden,

Respondent. ORDER

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Petitioner, a state prisoner proceeding with appointed counsel, has filed the parties' stipulation of dismissal with prejudice of petitioner's first ground for relief (violation of due process and right to jury trial by failure to instruct on theory of defense) and his third ground (violation of due process by erroneous instruction on the burden of proof to prove defense of necessity). Petitioner's motion for judgment on the pleadings as to ground two (jury instructions on the intent required for implied malice murder violated his right to due process and his right to a jury trial) was previously denied. See Order, filed on March 28, 2006.

As this matter has afterwards been proceeding only as to petitioner's first and third grounds for relief (see Order, filed on April 3, 2006), in light of the stipulated dismissal of those grounds, the petition is denied and the court now directs the Clerk of the Court to enter judgment for respondent in this case.

1 IT IS SO ORDERED.  
2 DATED: September 20, 2006  
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DAVID F. LEVI  
UNITED STATES DISTRICT JUDGE